

8 • Winning women's rights in Morocco: cultural adaptations and Islamic family law

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This chapter highlights the efforts of the Moroccan women's movement that contributed to the 2004 legislative reform of the *Moudawana* (Personal Status Code),² or Islamic family law. Specifically, we focus on the advocacy and lobbying strategies of a particular progressive feminist human rights non-governmental organization (NGO) in Morocco, the Association Démocratique des Femmes du Maroc (ADFM, Moroccan Women's Democratic Association) and its alliances. This case provides an overview of the movement strategies developed and deployed during the 1990s and early 2000s. The campaign to reform the *Moudawana* took place in a contentious political context with a strong opposition, stemming from the organizing efforts of religious conservative and Islamist groups. The conservative social and institutional context also presented challenges to the women's rights activists' legal reform efforts and their goals of achieving equal status in the family. Despite the constraining context, progressive women's rights activists were able to mobilize culturally resonant discourses and strategies to obtain support for legal reform.

The Moroccan case is interesting to analyse because women's rights activists located the proposed legislative changes in an Islamic frame of reference as well as in relation to universal principles of human rights. Practically, this case broadens knowledge of the dynamic activism that exists in the women's movement in Morocco as well as describing contributions that enabled the reform of the *Moudawana*. The organizing successes of the *Moudawana* campaign have also been seen as a model for women's rights activists across the Maghreb and the Middle East to be drawn upon, contextualized and adapted.

First, an overview of the Moroccan legal context and the women's movement's goals is presented. Next, we highlight the main movement factors that appear to have contributed to the success of the *Moudawana* reform, which include the capacity to utilize and actively create political opportunities, to enhance the depth and strength of advocacy efforts, to extend the reach and influence of alliances and coalitions, and to remain flexible and adaptive in campaign strategies.

A history of the *Moudawana*

In 1957/58, after independence was gained from France, a commission of *Oulema* (religious scholars and interpreters of Islamic doctrines and laws) underwent a process of debate, negotiation and consensus on the contents of the *Moudawana*. The legislation was strongly inspired by Muslim rights within the Malikite tradition of Islamic jurisprudence based on *fiqh* (legal rules developed in the Islamic jurisprudence process, deriving from the Koran), which legislates the rights and obligations of men and women in all aspects of private life. This first *Moudawana* (1957/58–2004) was a patriarchal law, with the man being characterized as the head of the household and superior to the woman, while the woman was conceptualized as a minor under the guardianship of a man. Legal restrictions prevented women from seeking divorce, retaining custody of the children in case of divorce, or gaining equal inheritance.

In Morocco, the *Moudawana* is the only legislation that falls under Islamic law. All other legislation, including penal and constitutional, is secular, set in a civil court system. It is important to note that these laws are not entirely equitable. Interestingly, even though the civil constitution adopted in 1962 grants equality to all Moroccan citizens, the *Moudawana* primarily determines women's rights in the family.³

Since the *Moudawana*'s promulgation, progressive women's rights activists have been organizing for reform to ensure equal rights (Sadiqi 2008). The activists have argued that the Koran, the Hadith (oral traditions relating to the words and deeds of the Prophet) and the *sunnah* (the Muslim way of life) had been subject to a masculine and conservative interpretation (CME95 2003). The activists locate the *fiqh* within a historically evolving perspective and draw upon the fundamental notions of *ijtihad* (the process of making an independent jurist decision on the religious interpretation of Islamic law), in order to reinterpret traditional laws with modern values (CME95 2000, 2003).

Prominent mobilizations in the earlier campaign periods for *Moudawana* reform were moderately successful. One of the most important activities at the time was the grassroots 'one million signatures' campaign, supporting a petition in favour of *Moudawana* reform. The initiative was launched by Union de l'Action Feminine (UAF, Union for Women's Action) through its newspaper, *8 Mars*, on 3 March 1992. The petition was a great success and illustrated significant public support. In 1993, legislative amendments to the *Moudawana* were made, after over thirty years of unsuccessful reform attempts. These reforms were considered superficial because major issues of concern to women's rights activists, including marital tutorship, polygamy, divorce and

repudiation, were left virtually untouched (Buskens 2003). Despite considering them superficial, activists saw the reforms as a critical success for future reform efforts. Once the *Moudawana* was amended, it could no longer be seen as an unalterable text, thus lifting the veil of sacredness surrounding it.⁴

After the 1993 reforms, women's rights groups continued to mobilize for more extensive legislative amendments. In the early 1990s, they began to shift their communication strategies to incorporate human rights arguments and a democratization discourse along with the need for new religious interpretations.⁵ Amina Lemrini, founder of ADFM, shared some of her organization's strategies. The NGO 'looked for local cultural strategies that secured the universal values of freedom, dignity, and rights [...] We justified this equality in terms of religion, using an argument that was hard to refute in our context.'⁶ Activists highlighted a multi-pronged approach to arguing for reform as predicated by *ijtihad* and based on the current path the nation was taking towards more democratic structures that aligned with principles of human rights, justice and equality. They crafted arguments in favour of the *Moudawana* reform deploying religious, constitutional, sociological and human rights discourses for use with different audiences (CME95 2003).

However, during this time an Islamist backlash in the country intensified and women's rights activists and their allies were increasingly charged with being un-Islamic, among other insults. The women's rights activists faced a strong countermovement that opposed their progressive claims. Two main currents of opposition formed at the time. Conservatives and Islamist political groups began to use religion to persuasively reject the women's rights activists' claim of equality within the family. The religious conservatives argued for a close interpretation of Islamic principles and stated that any revision made to the Personal Status Code would be against Islam. They countered that in place of reforms there should be greater respect for the traditions of Allah and the religion itself. On the other hand, the political Islamists framed the reforms proposed by the women's movement as an influence from the West with the goal of destroying social values and the Moroccan family. Their longer-term political plan entailed Morocco moving forward towards the goal of establishing an Islamic state.⁷

Owing to accusations from the opposition that women's rights activists were Westernized or 'loose', progressive women's rights NGOs began issuing statements and reports. For example, the Ligue Démocratique pour les Droits de la Femme (Democratic League for Women's Rights) declared: